

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Cause No. 1:16-cr-167-WTL-MJD-2, 4
)	
MAHDI KHELIFI and)	
HAMZA DRIDI,)	
)	
Defendants.)	

ENTRY ON MOTION IN LIMINE

This cause is before the Court on the Government's Motion in Limine (Dkt. No. 175). The Defendants have not filed a response, and the time for doing so has passed. *See* Dkt. No. 168. The Court, being duly advised, **GRANTS** the motion for the reasons set forth below.

The Government seeks a pretrial ruling on the admissibility of certain evidence it plans to tender for introduction at the trial.¹ It has identified texts and email messages that it argues are either not hearsay or are admissible under exceptions to the hearsay rule. Specifically, the Government argues that each identified text or email is either (1) not hearsay (a) because it is a question, not a statement; (b) because it is a statement made a party opponent under Federal Rule of Evidence 801(d)(2)(A); or (c) because it is a co-conspirator statement made in furtherance of the conspiracy under Rule 801(d)(2)(E)²; or (2) that it falls within a hearsay exception, namely


¹It is the Court's understanding that the Defendants have stipulated to the authenticity of the emails and texts.

²The Court already has made a preliminary determination regarding the admissibility of certain statements proffered by the Government pursuant to *United States v. Santiago*, 582 F.2d 1128 (7th Cir. 1978). *See* Dkt. No. 172.

(a) to demonstrate the Defendant's then-existing state of mind under Rule 803(3) or (b) under the residual exception under Rule 807.

The Court finds that the Government's proffer is sufficient for the Court to make a preliminary determination that these texts and emails are either not hearsay or fall within one of the hearsay exceptions. The Defendants may, of course, make objections at trial as evidence is proffered.

SO ORDERED: 1/5/18

A handwritten signature in black ink, reading "William T. Lawrence", written over a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Copies to all counsel of record via electronic communication